

Remarks

A. Pending Claims

Claims 35-37 and 39-52 are currently pending. Claims 1-14, 19-27, and 38 are rejected. Claims 1-14, 19-27, and 38 have been cancelled. Claims 35-37 are allowed. Claims 39-52 are new.

B. Objections to the Information Disclosure Statement

The Examiner states:

The information disclosure statement filed 05/15/03 fails to comply with 37 CFR 1.98(a)(1), which requires a list of all patents, publications, or other information submitted for consideration by the Office. It has been placed in the application file, but the information referred to therein has not been considered. This is with respect to US patent application 09/759,727. It has not been properly filed for consideration since it is provided on the 1449 form under "other". It is unclear what applicant is requesting the Examiner to consider. Applicant is requested to provide a copy of what applicant would like to be considered and to list it on the PTO-1449.

Applicant respectfully submits Applicant has complied with 37 CFR 1.98(a)(1). Applicant submitted patent application 09/759,727 as a courtesy as a related patent application for consideration as regards double patenting.

C. Objections to the Drawings

The Examiner states:

The drawings are objected to because there are 2 titles on proposed drawing sheet page 3. Thus, fig. 3 is still objected to with respect to the sleeve 40 being closed off. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application.

Applicant respectfully requests that the accompanying amended drawing (Fig. 3) be approved by the Examiner in the above-identified application. The distal end of the proximal portion of sleeve member 40 has been “opened” up. Element number 40 for the proximal portion of catheter 10 has been moved to better agree with element number 40 for the distal portion of catheter 10.

D. Objections to the Specification

The Examiner states:

The specification is objected to under 37 CFR 1.71 because there is a lack of enablement as shown in Fig. 3. It is unclear how fluid can be delivered to expand the sleeve member (40) if the sleeve is closed at the distal end of the transition (82). It appears that no fluid would be delivered past the termination of the transition (82) portion. It is unclear whether this is just a drawing error or a different embodiment. It is the understanding of the Examiner the Fig. 3 is just an expanded version of the device in Fig. 2 (which is the deflated form).

The Examiner objected to the specification under 37 CFR 1.71 because of a lack of enablement as shown in Fig. 3. Applicant has submitted a proposed amendment to Fig. 3 in an accompanying document.

E. Objections to the Claims

The Examiner states, “Claim 38 is objected to because of the following informalities: The claim lacks a period at the end. Appropriate correction is required.” Applicant has

cancelled claim 38.

F. The Claims Are Not Anticipated By Kazuhito Pursuant To 35 U.S.C. § 102(b)

The Examiner rejected claims 1-2, 10-14, 19-20, and 38 under 35 U.S.C. 102(b) as anticipated by European Patent No. 0970226 to Kazuhito et al. ("Kazuhito"). Applicant respectfully disagrees with these rejections; however to expedite prosecution of the present application Applicant has cancelled rejected claims 1-2, 10-14, 19-20, and 38. In addition, Applicant submits that European Patent No. 0970226 is entitled "VECTORS HAVING ENHANCED EXPRESSION, AND METHODS OF MAKING AND USES THEREOF" and is directed to Robert et al. and not to Kazuhito et al. Applicant respectfully request clarification as to the exact art Examiner is referring.

G. Double Patenting Rejection

The Examiner rejected claims 1-14 and 19-27 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,179,827. Applicant respectfully disagrees that the rejection is appropriate; however to expedite prosecution of the present application Applicant has cancelled rejected claims 1-14 and 19-27.

H. New Claims Require No Further Search by The Examiner

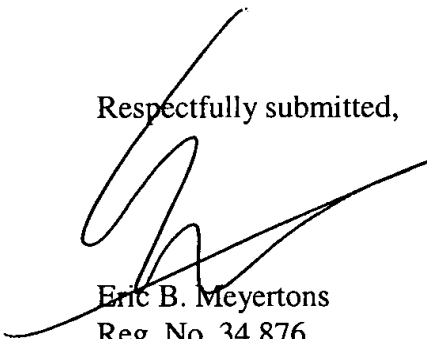
New claims 39-52 are dependent upon allowed claim 35 and include features from cancelled claim 1 and the claims dependent on claim 1 (cancelled claims 2-14). As such, Applicant believes that no further search by the Examiner is needed for the new claims. Applicant submits that new claims 39-52 are in condition for allowance.

I. Conclusion

Applicant submits that the claims are in condition for allowance. Favorable reconsideration is respectfully requested.

Applicant believes that no fees are due in association with the filing of this and accompanying documents. If any extension of time is required, Applicant hereby requests the appropriate extension of time. If any fees are required, please charge those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5838-00400/EBM.

Respectfully submitted,



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Date: 11-13-03